
SENATE BILL 6705

State of Washington

59th Legislature

2006 Regular Session

By Senators Finkbeiner and Kastama

Read first time 01/19/2006. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to prohibiting state officials from making public
2 service announcements; amending RCW 42.17.020; and adding a new section
3 to chapter 42.52 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 42.17.020 and 2005 c 445 s 6 are each amended to read
6 as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Actual malice" means to act with knowledge of falsity or with
10 reckless disregard as to truth or falsity.

11 (2) "Agency" includes all state agencies and all local agencies.
12 "State agency" includes every state office, department, division,
13 bureau, board, commission, or other state agency. "Local agency"
14 includes every county, city, town, municipal corporation, quasi-
15 municipal corporation, or special purpose district, or any office,
16 department, division, bureau, board, commission, or agency thereof, or
17 other local public agency.

18 (3) "Authorized committee" means the political committee authorized

1 by a candidate, or by the public official against whom recall charges
2 have been filed, to accept contributions or make expenditures on behalf
3 of the candidate or public official.

4 (4) "Ballot proposition" means any "measure" as defined by RCW
5 29A.04.091, or any initiative, recall, or referendum proposition
6 proposed to be submitted to the voters of the state or any municipal
7 corporation, political subdivision, or other voting constituency from
8 and after the time when the proposition has been initially filed with
9 the appropriate election officer of that constituency prior to its
10 circulation for signatures.

11 (5) "Benefit" means a commercial, proprietary, financial, economic,
12 or monetary advantage, or the avoidance of a commercial, proprietary,
13 financial, economic, or monetary disadvantage.

14 (6) "Bona fide political party" means:

15 (a) An organization that has filed a valid certificate of
16 nomination with the secretary of state under chapter 29A.20 RCW;

17 (b) The governing body of the state organization of a major
18 political party, as defined in RCW 29A.04.086, that is the body
19 authorized by the charter or bylaws of the party to exercise authority
20 on behalf of the state party; or

21 (c) The county central committee or legislative district committee
22 of a major political party. There may be only one legislative district
23 committee for each party in each legislative district.

24 (7) "Depository" means a bank designated by a candidate or
25 political committee pursuant to RCW 42.17.050.

26 (8) "Treasurer" and "deputy treasurer" mean the individuals
27 appointed by a candidate or political committee, pursuant to RCW
28 42.17.050, to perform the duties specified in that section.

29 (9) "Candidate" means any individual who seeks nomination for
30 election or election to public office. An individual seeks nomination
31 or election when he or she first:

32 (a) Receives contributions or makes expenditures or reserves space
33 or facilities with intent to promote his or her candidacy for office;

34 (b) Announces publicly or files for office;

35 (c) Purchases commercial advertising space or broadcast time to
36 promote his or her candidacy; or

37 (d) Gives his or her consent to another person to take on behalf of
38 the individual any of the actions in (a) or (c) of this subsection.

1 (10) "Caucus political committee" means a political committee
2 organized and maintained by the members of a major political party in
3 the state senate or state house of representatives.

4 (11) "Commercial advertiser" means any person who sells the service
5 of communicating messages or producing printed material for broadcast
6 or distribution to the general public or segments of the general public
7 whether through the use of newspapers, magazines, television and radio
8 stations, billboard companies, direct mail advertising companies,
9 printing companies, or otherwise.

10 (12) "Commission" means the agency established under RCW 42.17.350.

11 (13) "Compensation" unless the context requires a narrower meaning,
12 includes payment in any form for real or personal property or services
13 of any kind: PROVIDED, That for the purpose of compliance with RCW
14 42.17.241, the term "compensation" shall not include per diem
15 allowances or other payments made by a governmental entity to reimburse
16 a public official for expenses incurred while the official is engaged
17 in the official business of the governmental entity.

18 (14) "Continuing political committee" means a political committee
19 that is an organization of continuing existence not established in
20 anticipation of any particular election campaign.

21 (15)(a) "Contribution" includes:

22 (i) A loan, gift, deposit, subscription, forgiveness of
23 indebtedness, donation, advance, pledge, payment, transfer of funds
24 between political committees, or anything of value, including personal
25 and professional services for less than full consideration;

26 (ii) An expenditure made by a person in cooperation, consultation,
27 or concert with, or at the request or suggestion of, a candidate, a
28 political committee, or their agents;

29 (iii) The financing by a person of the dissemination, distribution,
30 or republication, in whole or in part, of broadcast, written, graphic,
31 or other form of political advertising or electioneering communication
32 prepared by a candidate, a political committee, or its authorized
33 agent;

34 (iv) Sums paid for tickets to fund-raising events such as dinners
35 and parties, except for the actual cost of the consumables furnished at
36 the event.

37 (b) "Contribution" does not include:

1 (i) Standard interest on money deposited in a political committee's
2 account;

3 (ii) Ordinary home hospitality;

4 (iii) A contribution received by a candidate or political committee
5 that is returned to the contributor within five business days of the
6 date on which it is received by the candidate or political committee;

7 (iv) A news item, feature, commentary, or editorial in a regularly
8 scheduled news medium that is of primary interest to the general
9 public, that is in a news medium controlled by a person whose business
10 is that news medium, and that is not controlled by a candidate or a
11 political committee;

12 (v) An internal political communication primarily limited to the
13 members of or contributors to a political party organization or
14 political committee, or to the officers, management staff, or
15 stockholders of a corporation or similar enterprise, or to the members
16 of a labor organization or other membership organization;

17 (vi) The rendering of personal services of the sort commonly
18 performed by volunteer campaign workers, or incidental expenses
19 personally incurred by volunteer campaign workers not in excess of
20 fifty dollars personally paid for by the worker. "Volunteer services,"
21 for the purposes of this section, means services or labor for which the
22 individual is not compensated by any person;

23 (vii) Messages in the form of reader boards, banners, or yard or
24 window signs displayed on a person's own property or property occupied
25 by a person. However, a facility used for such political advertising
26 for which a rental charge is normally made must be reported as an in-
27 kind contribution and counts towards any applicable contribution limit
28 of the person providing the facility;

29 (viii) Legal or accounting services rendered to or on behalf of:

30 (A) A political party or caucus political committee if the person
31 paying for the services is the regular employer of the person rendering
32 such services; or

33 (B) A candidate or an authorized committee if the person paying for
34 the services is the regular employer of the individual rendering the
35 services and if the services are solely for the purpose of ensuring
36 compliance with state election or public disclosure laws.

37 (c) Contributions other than money or its equivalent are deemed to
38 have a monetary value equivalent to the fair market value of the

1 contribution. Services or property or rights furnished at less than
2 their fair market value for the purpose of assisting any candidate or
3 political committee are deemed a contribution. Such a contribution
4 must be reported as an in-kind contribution at its fair market value
5 and counts towards any applicable contribution limit of the provider.

6 (16) "Elected official" means any person elected at a general or
7 special election to any public office, and any person appointed to fill
8 a vacancy in any such office.

9 (17) "Election" includes any primary, general, or special election
10 for public office and any election in which a ballot proposition is
11 submitted to the voters: PROVIDED, That an election in which the
12 qualifications for voting include other than those requirements set
13 forth in Article VI, section 1 (Amendment 63) of the Constitution of
14 the state of Washington shall not be considered an election for
15 purposes of this chapter.

16 (18) "Election campaign" means any campaign in support of or in
17 opposition to a candidate for election to public office and any
18 campaign in support of, or in opposition to, a ballot proposition.

19 (19) "Election cycle" means the period beginning on the first day
20 of December after the date of the last previous general election for
21 the office that the candidate seeks and ending on November 30th after
22 the next election for the office. In the case of a special election to
23 fill a vacancy in an office, "election cycle" means the period
24 beginning on the day the vacancy occurs and ending on November 30th
25 after the special election.

26 (20) "Electioneering communication" means any broadcast, cable, or
27 satellite television or radio transmission, United States postal
28 service mailing, billboard, newspaper, or periodical that:

29 (a) Clearly identifies a candidate for a state, local, or judicial
30 office either by specifically naming the candidate, or identifying the
31 candidate without using the candidate's name;

32 (b) Is broadcast, transmitted, mailed, erected, distributed, or
33 otherwise published within sixty days before any election for that
34 office in the jurisdiction in which the candidate is seeking election;
35 and

36 (c) Either alone, or in combination with one or more communications
37 identifying the candidate by the same sponsor during the sixty days

1 before an election, has a fair market value of five thousand dollars or
2 more.

3 (21) "Electioneering communication" does not include:

4 (a) Usual and customary advertising of a business owned by a
5 candidate, even if the candidate is mentioned in the advertising when
6 the candidate has been regularly mentioned in that advertising
7 appearing at least twelve months preceding his or her becoming a
8 candidate;

9 (b) Advertising for candidate debates or forums when the
10 advertising is paid for by or on behalf of the debate or forum sponsor,
11 so long as two or more candidates for the same position have been
12 invited to participate in the debate or forum;

13 (c) A news item, feature, commentary, or editorial in a regularly
14 scheduled news medium that is:

15 (i) Of primary interest to the general public;

16 (ii) In a news medium controlled by a person whose business is that
17 news medium; and

18 (iii) Not a medium controlled by a candidate or a political
19 committee;

20 (d) Slate cards and sample ballots;

21 (e) Advertising for books, films, dissertations, or similar works
22 (i) written by a candidate when the candidate entered into a contract
23 for such publications or media at least twelve months before becoming
24 a candidate, or (ii) written about a candidate;

25 (f) ~~((Public service announcements;~~

26 ~~(g)))~~ A mailed internal political communication primarily limited
27 to the members of or contributors to a political party organization or
28 political committee, or to the officers, management staff, or
29 stockholders of a corporation or similar enterprise, or to the members
30 of a labor organization or other membership organization;

31 ~~((h)))~~ (g) An expenditure by or contribution to the authorized
32 committee of a candidate for state, local, or judicial office; or

33 ~~((i)))~~ (h) Any other communication exempted by the commission
34 through rule consistent with the intent of this chapter.

35 (22) "Expenditure" includes a payment, contribution, subscription,
36 distribution, loan, advance, deposit, or gift of money or anything of
37 value, and includes a contract, promise, or agreement, whether or not
38 legally enforceable, to make an expenditure. The term "expenditure"

1 also includes a promise to pay, a payment, or a transfer of anything of
2 value in exchange for goods, services, property, facilities, or
3 anything of value for the purpose of assisting, benefiting, or honoring
4 any public official or candidate, or assisting in furthering or
5 opposing any election campaign. For the purposes of this chapter,
6 agreements to make expenditures, contracts, and promises to pay may be
7 reported as estimated obligations until actual payment is made. The
8 term "expenditure" shall not include the partial or complete repayment
9 by a candidate or political committee of the principal of a loan, the
10 receipt of which loan has been properly reported.

11 (23) "Final report" means the report described as a final report in
12 RCW 42.17.080(2).

13 (24) "General election" for the purposes of RCW 42.17.640 means the
14 election that results in the election of a person to a state office.
15 It does not include a primary.

16 (25) "Gift," is as defined in RCW 42.52.010.

17 (26) "Immediate family" includes the spouse, dependent children,
18 and other dependent relatives, if living in the household. For the
19 purposes of RCW 42.17.640 through 42.17.790, "immediate family" means
20 an individual's spouse, and child, stepchild, grandchild, parent,
21 stepparent, grandparent, brother, half brother, sister, or half sister
22 of the individual and the spouse of any such person and a child,
23 stepchild, grandchild, parent, stepparent, grandparent, brother, half
24 brother, sister, or half sister of the individual's spouse and the
25 spouse of any such person.

26 (27) "Incumbent" means a person who is in present possession of an
27 elected office.

28 (28) "Independent expenditure" means an expenditure that has each
29 of the following elements:

30 (a) It is made in support of or in opposition to a candidate for
31 office by a person who is not (i) a candidate for that office, (ii) an
32 authorized committee of that candidate for that office, (iii) a person
33 who has received the candidate's encouragement or approval to make the
34 expenditure, if the expenditure pays in whole or in part for political
35 advertising supporting that candidate or promoting the defeat of any
36 other candidate or candidates for that office, or (iv) a person with
37 whom the candidate has collaborated for the purpose of making the

1 expenditure, if the expenditure pays in whole or in part for political
2 advertising supporting that candidate or promoting the defeat of any
3 other candidate or candidates for that office;

4 (b) The expenditure pays in whole or in part for political
5 advertising that either specifically names the candidate supported or
6 opposed, or clearly and beyond any doubt identifies the candidate
7 without using the candidate's name; and

8 (c) The expenditure, alone or in conjunction with another
9 expenditure or other expenditures of the same person in support of or
10 opposition to that candidate, has a value of five hundred dollars or
11 more. A series of expenditures, each of which is under five hundred
12 dollars, constitutes one independent expenditure if their cumulative
13 value is five hundred dollars or more.

14 (29)(a) "Intermediary" means an individual who transmits a
15 contribution to a candidate or committee from another person unless the
16 contribution is from the individual's employer, immediate family as
17 defined for purposes of RCW 42.17.640 through 42.17.790, or an
18 association to which the individual belongs.

19 (b) A treasurer or a candidate is not an intermediary for purposes
20 of the committee that the treasurer or candidate serves.

21 (c) A professional fund-raiser is not an intermediary if the fund-
22 raiser is compensated for fund-raising services at the usual and
23 customary rate.

24 (d) A volunteer hosting a fund-raising event at the individual's
25 home is not an intermediary for purposes of that event.

26 (30) "Legislation" means bills, resolutions, motions, amendments,
27 nominations, and other matters pending or proposed in either house of
28 the state legislature, and includes any other matter that may be the
29 subject of action by either house or any committee of the legislature
30 and all bills and resolutions that, having passed both houses, are
31 pending approval by the governor.

32 (31) "Lobby" and "lobbying" each mean attempting to influence the
33 passage or defeat of any legislation by the legislature of the state of
34 Washington, or the adoption or rejection of any rule, standard, rate,
35 or other legislative enactment of any state agency under the state
36 Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor
37 "lobbying" includes an association's or other organization's act of
38 communicating with the members of that association or organization.

1 (32) "Lobbyist" includes any person who lobbies either in his or
2 her own or another's behalf.

3 (33) "Lobbyist's employer" means the person or persons by whom a
4 lobbyist is employed and all persons by whom he or she is compensated
5 for acting as a lobbyist.

6 (34) "Participate" means that, with respect to a particular
7 election, an entity:

8 (a) Makes either a monetary or in-kind contribution to a candidate;

9 (b) Makes an independent expenditure or electioneering
10 communication in support of or opposition to a candidate;

11 (c) Endorses a candidate prior to contributions being made by a
12 subsidiary corporation or local unit with respect to that candidate or
13 that candidate's opponent;

14 (d) Makes a recommendation regarding whether a candidate should be
15 supported or opposed prior to a contribution being made by a subsidiary
16 corporation or local unit with respect to that candidate or that
17 candidate's opponent; or

18 (e) Directly or indirectly collaborates or consults with a
19 subsidiary corporation or local unit on matters relating to the support
20 of or opposition to a candidate, including, but not limited to, the
21 amount of a contribution, when a contribution should be given, and what
22 assistance, services or independent expenditures, or electioneering
23 communications, if any, will be made or should be made in support of or
24 opposition to a candidate.

25 (35) "Person" includes an individual, partnership, joint venture,
26 public or private corporation, association, federal, state, or local
27 governmental entity or agency however constituted, candidate,
28 committee, political committee, political party, executive committee
29 thereof, or any other organization or group of persons, however
30 organized.

31 (36) "Person in interest" means the person who is the subject of a
32 record or any representative designated by that person, except that if
33 that person is under a legal disability, the term "person in interest"
34 means and includes the parent or duly appointed legal representative.

35 (37) "Political advertising" includes any advertising displays,
36 newspaper ads, billboards, signs, brochures, articles, tabloids,
37 flyers, letters, radio or television presentations, or other means of

1 mass communication, used for the purpose of appealing, directly or
2 indirectly, for votes or for financial or other support or opposition
3 in any election campaign.

4 (38) "Political committee" means any person (except a candidate or
5 an individual dealing with his or her own funds or property) having the
6 expectation of receiving contributions or making expenditures in
7 support of, or opposition to, any candidate or any ballot proposition.

8 (39) "Primary" for the purposes of RCW 42.17.640 means the
9 procedure for nominating a candidate to state office under chapter
10 29A.52 RCW or any other primary for an election that uses, in large
11 measure, the procedures established in chapter 29A.52 RCW.

12 (40) "Public office" means any federal, state, judicial, county,
13 city, town, school district, port district, special district, or other
14 state political subdivision elective office.

15 (41) "Public record" includes any writing containing information
16 relating to the conduct of government or the performance of any
17 governmental or proprietary function prepared, owned, used, or retained
18 by any state or local agency regardless of physical form or
19 characteristics. For the office of the secretary of the senate and the
20 office of the chief clerk of the house of representatives, public
21 records means legislative records as defined in RCW 40.14.100 and also
22 means the following: All budget and financial records; personnel
23 leave, travel, and payroll records; records of legislative sessions;
24 reports submitted to the legislature; and any other record designated
25 a public record by any official action of the senate or the house of
26 representatives.

27 (42) "Recall campaign" means the period of time beginning on the
28 date of the filing of recall charges under RCW 29A.56.120 and ending
29 thirty days after the recall election.

30 (43) "Sponsor of an electioneering communications, independent
31 expenditures, or political advertising" means the person paying for the
32 electioneering communication, independent expenditure, or political
33 advertising. If a person acts as an agent for another or is reimbursed
34 by another for the payment, the original source of the payment is the
35 sponsor.

36 (44) "State legislative office" means the office of a member of the
37 state house of representatives or the office of a member of the state
38 senate.

1 (45) "State office" means state legislative office or the office of
2 governor, lieutenant governor, secretary of state, attorney general,
3 commissioner of public lands, insurance commissioner, superintendent of
4 public instruction, state auditor, or state treasurer.

5 (46) "State official" means a person who holds a state office.

6 (47) "Surplus funds" mean, in the case of a political committee or
7 candidate, the balance of contributions that remain in the possession
8 or control of that committee or candidate subsequent to the election
9 for which the contributions were received, and that are in excess of
10 the amount necessary to pay remaining debts incurred by the committee
11 or candidate prior to that election. In the case of a continuing
12 political committee, "surplus funds" mean those contributions remaining
13 in the possession or control of the committee that are in excess of the
14 amount necessary to pay all remaining debts when it makes its final
15 report under RCW 42.17.065.

16 (48) "Writing" means handwriting, typewriting, printing,
17 photostating, photographing, and every other means of recording any
18 form of communication or representation, including, but not limited to,
19 letters, words, pictures, sounds, or symbols, or combination thereof,
20 and all papers, maps, magnetic or paper tapes, photographic films and
21 prints, motion picture, film and video recordings, magnetic or punched
22 cards, discs, drums, diskettes, sound recordings, and other documents
23 including existing data compilations from which information may be
24 obtained or translated.

25 As used in this chapter, the singular shall take the plural and any
26 gender, the other, as the context requires.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.52 RCW
28 to read as follows:

29 Except for officers and employees of the lottery commission and
30 those agencies that are expressly authorized in statute to issue public
31 service announcements, no state officer or state employee may use or
32 authorize the use of facilities of an agency, directly or indirectly,
33 to make, issue, or advertise a public service announcement. Facilities
34 of an agency include, but are not limited to, use of stationery,
35 postage, machines, and equipment, use of state employees of the agency

1 during working hours, vehicles, office space, publications of the
2 agency, and clientele lists of persons served by the agency.

--- END ---